

SECTION 104 SCOPE OF WORK

104.01 INTENT OF CONTRACT. Furnish all resources required to complete the work under the Contract.

104.02 DIFFERING SITE CONDITIONS, SUSPENSIONS OF WORK, AND SIGNIFICANT CHANGES IN THE CHARACTER OF WORK.

104.02.1 Differing Site Conditions. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

Upon written notification, the Engineer will investigate the conditions. If the Engineer determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment, excluding loss of anticipated profits, will be made and the Contract modified in writing accordingly. The Engineer will notify the Contractor of the determination whether or not an adjustment of the Contract is warranted.

No contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.

No Contract adjustment will be allowed under this clause for any effects caused on unchanged work.

104.02.2 Suspensions of Work Ordered By the Engineer. If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Project Manager in writing a request for adjustment within seven calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

Upon receipt, the Engineer will evaluate the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the Contract in writing accordingly. The Contractor will be notified of the Engineer's determination as to whether or not an adjustment of the Contract is warranted.

No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.

No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for

which an adjustment is provided for or excluded under any other term or condition of the Contract.

104.02.3 Significant Changes in the Character of Work. The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract nor release the surety, and the Contractor agrees to perform the work as altered.

If the alterations or changes in quantities significantly change the character of the work under the Contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the Contract. The basis for the adjustment shall be agreed upon before the work is performed. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Engineer may determine to be fair and equitable.

If the alterations or changes in quantities do not significantly change the character of the work to be performed under the Contract, the altered work will be paid for as provided elsewhere in the Contract.

The term "significant change" shall be construed to apply only to the following circumstances:

1. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
2. When a major item of work, as defined in Subsection 101.40, is increased in excess of 125 % or decreased below 75% of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125% of original contract item quantity, or in case of a decrease below 75%, to the actual amount of work performed.

104.02.4 Change Orders. Change orders will include the following information:

1. A description of the altered, increased, or decreased work or description of other change necessitating the change order;
2. An estimate of the types and quantities of work to be performed and a listing of the agreed prices and contract unit prices at which payment will be made;
3. Contract time adjustments.

Change orders must be executed by both parties to the Contract and become a part of the Contract.

Payment for the work will be made for the actual quantities of work performed at the prices specified in the change order.

104.03 EXTRA WORK. Perform unanticipated work, not included in the Contract, if determined necessary to complete the project. Perform extra work as directed. Payment for extra work is made under Subsection 109.04.

Extra work performed without an executed written order will not be paid for.

104.04 MISCELLANEOUS WORK. This is any minor work or material that is necessary to the work.

Miscellaneous work, as provided for in the Contract, is measured by the respective unit for either the material or work performed as directed in writing by the Project Manager.

Payment for miscellaneous minor work is at agreed prices or on a force account basis.

104.05 MAINTENANCE OF THE WORK.

104.05.1 General. Perform maintenance work on completed and uncompleted parts of the project until acceptance under Subsection 105.15.

Maintenance includes, but is not limited to the following:

1. Patching chuck holes with asphalt mix;
2. Reshaping the subgrade, side slopes, ditch sections, or aggregate courses, as necessary;
3. Cleaning debris from drainage courses, culverts, and inlets;
4. Removing rocks or earth from the roadway and ditch sections;
5. Removing debris resulting from construction activities;
6. Providing access to residences, businesses, and roads and keeping the present accesses open;
7. Repair or replace minor damaged parts of the work;
8. Repair or replace extensive damage, not by Contractor negligence, under Subsection 104.02.4;
9. Maintenance of the constructed roadway under Subsection 203.03.5;
10. Disposing of removed matter;
11. Maintenance of irrigation water under Subsection 104.05.6;
12. Other maintenance-type work not specifically described but necessary for the maintenance and protection of traffic or of completed and uncompleted portions of the project.

Maintenance work performed before acceptance under Subsection 105.15 is incidental to other Contract items.

104.05.2 Failure To Properly Maintain Roadway or Structure. The Project Manager will immediately notify the Contractor if it fails to maintain the project. Failure to remedy unsatisfactory maintenance within 24 hours after receipt of the notice will cause the Department to take over project maintenance. The cost of the maintenance will be deducted from monies due or to become due the Contractor, or otherwise be billed to the Contractor.

104.05.3 Maintenance for Traffic and Detours.

- A. Maintenance for Traffic.** Keep the road open to traffic during the work or provide detour roads as specified or directed.

Maintain the work under construction to accommodate traffic. Construct and maintain all accesses to parking lots, garages, businesses, residences, farms, etc. The cost of this work is incidental to other items of the Contract.

Provide traffic control meeting the approved traffic control plan, Section 618 - Traffic Control, and the MUTCD.

- B. Special Detours.** When the Contract has the item Detour - Construct, Maintain, and Remove, it includes constructing and maintaining the detour,

including constructing and removing temporary bridges, pipes and associated work and obliterating the detour road.

Do not use all or any portion of an existing structure, as defined in Subsection 101.68, without the Engineer's approval. Do not modify existing structures or construct temporary structures without Department approval before starting work. This work is incidental to the contract item.

The Department will provide the right-of-way for temporary detours or bridges specified in the Contract.

104.05.4 Maintenance for Traffic During Work Suspensions.

A. Temporary Suspension. Make passable and open to traffic portions of the project, connections, and temporary roadways before temporary work suspensions. Maintain parts of the project, connections, temporary roadways, and detours under traffic at Contractor expense during work suspensions.

B. Winter Suspension. Before winter weather work suspension, including the time between November 16 through April 15, make a written request for an inspection of the project or portions of the project to remain open to traffic. Correct all areas not acceptable to the Engineer and district maintenance representative as directed. Construct all portions of the project that remain open to traffic, including temporary roadways, to provide drainage and snow storage and place in a safe, smooth driving condition. Provide roadway widths that permit the safe use of snow-removal equipment.

1. Snow Removal. Snow removal is by and at the Department or County expense. Remove snow for construction or areas not used by the traveling public at Contractor expense.

2. Other Maintenance Functions. The Department will perform routine maintenance functions on all portions of the project not affected by the Contractor's operations. Maintain portions of the project affected by construction operations.

Failure to maintain the project under these requirements will invoke Subsection 104.05.2.

Resume maintenance for the entire project once work resumes.

Replace or repair all work or materials lost or damaged due to temporary use of the project. Maintenance required for events that are outside the Contractor's control during work suspensions are paid for at contract unit prices or as extra work.

104.05.5 Maintenance of Traffic Control Devices During Seasonal Work Suspensions. Furnish and install all required traffic control devices on all portions of the project and temporary roadways to be left open to traffic before seasonal shutdown. The Department will maintain traffic control devices during seasonal shutdowns.

Resume maintenance responsibility for traffic control devices on the project once the resume work order is issued.

104.05.6 Maintenance of Irrigation Water. Construct or move irrigation structures, boxes, channel changes, and culverts to maintain irrigation water flow at Contractor expense.

Do not shut off irrigation water in an irrigation ditch without the water-master or ditch owners written permission.

104.06 RIGHTS IN AND USE OF MATERIALS FOUND ON THE WORK. Obtain the Engineer's approval to use excavated materials found in other parts of the work. The quantity of excavated material used will be paid for under the pay item for which the material is used. Payment will not be made under any other pay item for excavating the material. Replace the removed material with acceptable material at Contractor expense.

Do not excavate or remove material from within the right-of-way that is outside the grading limits without written permission.

104.07 FINAL CLEANING UP. Clean the highway, borrow pits, and all ground used in performance of the work of all rubbish, debris, excess materials, temporary structures, and equipment before final acceptance.

Meet the requirements of Subsection 106.02.5 for final cleanup of borrow and aggregate sources.

The final cleanup work of the project area and the pits, borrow areas, or quarries is not paid for directly but is incidental to other Contract items.

Specify the conditions for final cleanup in all landowner agreements. Complete all cleanup conditions before final project acceptance.

104.08 VALUE ENGINEERING PROPOSALS. Cost savings generated on the Contract from cost reduction proposals offered by the Contractor and approved by the Department will be shared.

The Contractor is encouraged to submit proposals for modifying the contract that reduces the total cost of construction. The cost reduction proposal must not impair the essential functions or characteristics of the project including but not limited to service life, economy of operation, ease of maintenance, reliability, desired appearance, and safety.

Submit the proposal in writing and include the following information:

1. A description of both the existing work and proposed changes for performing the work with a discussion of the comparative advantages and disadvantages;
2. An itemization of the necessary changes to the contract if the proposal is accepted;
3. A detailed cost estimate for performing the work under the existing contract and under the proposed change detailing quantities and dollar amounts for each work item;
4. An estimate of the effect the proposed changes would have on other costs to the Department;
5. A time frame within which the Department must make a decision;
6. The dates, project numbers and the action of the Department if the proposal was previously submitted;

7. A statement of the effect implementation of the proposal would have on the contract completion time.

The Department is not required to consider a proposal or be liable to the Contractor for failure to accept or act on a proposal submitted under this specification including delays to the work attributable to the proposal. Proposals that are similar to a change in the contract that are under consideration or have been adopted by the Department before the submittal will not be accepted. The Department reserves the right to make these changes without compensation to the Contractor.

Continue to perform the work according to the contract requirements until the Department has taken final action on the proposal. Consider the proposal rejected if the Department's final decision is not received within the time frame specified in the Contractor's submittal.

The Department will determine the acceptability and the estimated net savings in construction costs from the adoption of all or part of a proposal. The Department will disregard the contract bid prices if these prices do not represent a fair measure of the value of work to be performed or to be deleted. The Department's costs for reviewing and implementing proposals including any increased costs to the Department resulting from its application, will be deducted from the total estimated cost saving to arrive at the net savings.

The Department's cost of investigating a proposal will be at the Contractor's expense with the submittal of a proposal constituting the Department's authority to deduct these costs from any monies due or that may become due to the Contractor under the Contract.

Proposals accepted by the Department in whole or in part will be by a change order. The change order will incorporate the changes in the contract necessary to implement the proposal and will include any conditions placed on the approval by the Department. The change order will establish the estimated net savings in the cost of performing the work attributable to the proposal and provide for payment of 50% of the estimated net savings to the Contractor.

Acceptance of proposals does not extend the contract time unless specifically provided for in the change order.

The payment amount specified in the change order constitutes full compensation to the Contractor for the proposal and the performance of the work.

The Department reserves the right to apply a proposal for general use on other contracts administered by the Department. When an accepted proposal is applied for general use, only the Contractor who submitted the initial proposal is eligible for compensation and this compensation applies only to those contracts awarded to the Contractor before submission of the accepted proposal. Proposals that are identical or similar to previously submitted proposals will be eligible for consideration and compensation under this specification if the proposals were not previously adopted for use in other contracts administered by the Department. Subject to these provisions, the Department reserves the right to use all or any part of any submitted proposal without obligation or compensation to the Contractor.

This specification applies only to the Contractor awarded the contract.

No consideration will be given to, and no payment made for any claims for additional compensation for changed conditions that are attributable to the approved proposal.